

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In Re WAL-MART STORES, INC.  
WAGE AND HOUR LITIGATION

Case No. C 06-02069 SBA

**ORDER AND FINAL JUDGMENT  
APPROVING SETTLEMENT BETWEEN  
CLASS PLAINTIFFS AND WAL-MART  
STORES, INC.**

This Document Relates To:

Case Nos.:  
C 06-02069 SBA (Smith) and  
C 06-05411 SBA (Ballard)

This matter came before this Court on the Plaintiffs' Motion for Final Approval of Settlement ("Final Approval Motion").

WHEREAS, a class action is pending before the Court entitled *In re Wal-Mart Stores, Inc. Wage & Hour Litigation*, Case Number C 06-02069 SBA;

WHEREAS, the Court has received and reviewed the Settlement Agreement entered into between the Named Plaintiffs, the Class Representatives and the Class Members, on the one hand, and Wal-Mart Stores, Inc. ("Wal-Mart"), on the other hand, dated on or about May 7, 2010 (the "Settlement Agreement"), and has considered the terms of the proposed settlement set forth therein (the "Settlement");

WHEREAS, all terms contained herein shall have the same meanings as set forth in the

1 Settlement Agreement, unless otherwise defined herein;

2        WHEREAS, on June 27, 2010, the Court entered its order preliminarily approving the  
3 Settlement of this class action, approving the form and method of notice, and setting a date and  
4 time for a fairness hearing to consider whether the Settlement should be finally approved by the  
5 Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, adequate, and  
6 reasonable (the “Preliminary Approval Order”);

7        WHEREAS, the Preliminary Approval Order further directed that all members of the  
8 Settlement Class be given notice of the Settlement and of the date for the final fairness hearing;

9        WHEREAS, the Court has received the declaration of Rachel Braun attesting to the  
10 mailing and publication of the Notice in substantial accordance with the Preliminary Approval  
11 Order;

12        WHEREAS, the Court entered an Amended Settlement Class Certification Order on July  
13 21, 2010, which reflects the claims certified for Settlement purposes and the scope of the  
14 Settlement Class;

15        WHEREAS, all objections to the Settlement have been withdrawn, except for the  
16 objection of Budi Widjaja, which the Court addresses by separate order; and

17        WHEREAS, the Court having conducted a final fairness hearing on November 9, 2010  
18 (the “Fairness Hearing”), and having considered the arguments presented, all papers filed and all  
19 proceedings had therein;

20            IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

21            1.        The Court has jurisdiction over the subject matter of this action, all members of the  
22 Settlement Class, and Defendant Wal-Mart Stores, Inc.

23            2.        In accordance with Rule 23 of the Federal Rules of Civil Procedure and the  
24 requirements of due process, all members of the Settlement Class have been given proper and  
25 adequate notice of the Settlement. Based upon the evidence submitted by the parties, the  
26 Settlement Agreement, the arguments of counsel, and all the files, records and proceedings in this  
27 case, the Court finds that the Notice and notice methodology implemented pursuant to the  
28 Settlement Agreement and the Court’s Preliminary Approval Order (a) constituted the best

1 practicable notice under the circumstances; (b) constituted notice that was reasonably calculated,  
 2 under the circumstances, to apprise members of the Settlement Class of the pendency of the  
 3 litigation, their right to object to the Settlement, and their right to appear at the Fairness Hearing;  
 4 (c) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to  
 5 notice; and (d) met all applicable requirements of Rule 23 of the Federal Rules of Civil  
 6 Procedure, and any other applicable law.

7       3. The Settlement Agreement in this action warrants final approval pursuant to Rule  
 8 23(e) of the Federal Rules of Civil Procedure because it is fair, adequate, and reasonable to those  
 9 it affects, and resulted from vigorously contested litigation, including over three years of  
 10 discovery, motion practice and additional merits discovery, and extensive good-faith arm's length  
 11 negotiations between the parties, and is in the public interest considering the following factors:

- 12             (a) the strength of the plaintiffs' case;
- 13             (b) the risk, expense, complexity and likely duration of further litigation;
- 14             (c) the risk of maintaining class action status throughout the trial;
- 15             (d) the amount offered in settlement;
- 16             (e) the extent of discovery completed, and the stage of the proceedings;
- 17             (f) the experience and views of counsel;
- 18             (g) the presence of a governmental participant; and
- 19             (h) the reaction of the class members to the proposed settlement.

20 *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9<sup>th</sup> Cir. 1993). Settlements that follow  
 21 sufficient discovery and genuine arms-length negotiation are presumed fair. *Hanlon v. Chrysler*  
 22 *Corp.*, 150 F.3d 1011, 1026 (9<sup>th</sup> Cir. 1998).

23       4. The Final Approval Motion is hereby GRANTED, and the Settlement Agreement  
 24 is hereby APPROVED as fair, reasonable, adequate, and in the public interest, and the terms of  
 25 the Settlement Agreement are hereby determined to be fair, reasonable and adequate, for the  
 26 exclusive benefit of the Class Members. The Parties are directed to consummate the Settlement  
 27 Agreement in accordance with its terms.

28       5. The Court APPROVES payment of the Class Settlement Amount in accordance

1 with the terms of the Settlement Agreement.

2       9.      The allocation plan is hereby APPROVED as fair, adequate, and reasonable. The  
3 Class Settlement Amount – and any Class Representative Incentive Awards and Attorneys' Fees  
4 and Costs Amount separately approved by the Court – shall be distributed in accordance with the  
5 terms of the Settlement Agreement and any further orders of this Court.<sup>1</sup>

6       10.     The Litigation is DISMISSED WITH PREJUDICE and without costs to any Party,  
7 other than as specified in the Settlement Agreement and any further order of this Court.

8       11.     In consideration of the Class Settlement Amount, and for other good and valuable  
9 consideration, each of the Releasing Class Members shall, by operation of this Judgment, have  
10 fully, finally, and forever released, relinquished, and discharged all Class Member Released  
11 Claims against Wal-Mart in accordance with Section 9 of the Settlement Agreement, shall have  
12 covenanted not to sue Wal-Mart with respect to all such Class Member Released Claims, and  
13 shall be permanently barred and enjoined from instituting, commencing, prosecuting or asserting  
14 any such Class Member Released Claim against Wal-Mart.

15      12.     This Judgment is the Final Judgment in the suit as to all Class Member Released  
16 Claims.

17      13.     At the November 9, 2010 Fairness Hearing, the parties consented to the  
18 jurisdiction of the Chief Magistrate Judge or her designee for any further proceedings.  
19 Accordingly, without affecting the finality of this Judgment in any way, the Chief Magistrate  
20 Judge or her designee retains jurisdiction over (a) implementation of the Settlement and the terms  
21 of the Settlement Agreement; (b) distribution of the Class Settlement Amount, and any Class  
22 Representative Incentive Awards, and any Attorneys' Fees and Costs Amount; and (c) all other  
23 proceedings related to the implementation, interpretation, administration, consummation, and  
24 enforcement of the terms of the Settlement Agreement and/or the Settlement, and the

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26       <sup>1</sup> Plaintiffs' Motion for Award of Incentive Payments to Plaintiffs and for Award of  
27 Attorneys' Fees has been taken under submission, and the Court will issue a separate order  
28 regarding that motion. Moreover, Plaintiffs' Motion for an Award of Costs has been referred to  
the Chief Magistrate Judge or her designee for further proceedings and a report and  
recommendation.

1 administration of Claims by Settlement Class Members. The time to appeal from this Judgment  
2 shall commence upon its entry.

3       14. In the event that the Settlement Effective Date does not occur, this Judgment shall  
4 be rendered null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly  
5 provided to the contrary in the Settlement Agreement, and without prejudice to the status quo ante  
6 rights of Plaintiffs, Settlement Class Members, and Wal-Mart.

7       15. This Court finds that there is no just reason for delay and expressly directs  
8 Judgment and immediate entry by the Clerk of the Court.

9           **IT IS SO ORDERED.**

10          Dated this 9th day of November, 2010.

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12           BY THE COURT:

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15          The Honorable Saundra Brown Armstrong

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